

In re Patent Application of:  
**KYLE R. JENSEN**  
Serial No. **09/940,977**  
Filing Date: **8/28/2001**

**Remarks**

Applicant and the undersigned would like to thank the Examiner for his efforts in the examination of this application. Reconsideration is respectfully requested.

**I. Rejection of Claims 1, 2, 4, 6, 7, 11, 12, 15, 20, 23, 25, 26, 30, 32, and 33 under 35 USC 103(a)**

The Examiner has rejected Claims 1, 2, 4, 6, 7, 11, 12, 15, 20, 23, 25, 26, 30, 32, and 33 under 35 USC 103(a) as being unpatentable over Montagnon et al. in view of Adey.

This rejection is respectfully traversed. Montagnon teaches the use of ozone for "eliminat[ing] viruses" [col. 5, line 61]. Respectfully, Montagnon does not teach the step of "flowing the water over a colony of attached algae to remove undesired matter" from the water to be treated (Claim 1), or as in the case of system Claim 20, the element of "means for directing the ozone-exposed water from the water-exposing means to the algal colony."

Rather, in Montagnon the algae are considered a detriment to the system, as they clog the biological bed, and are used as a monitor for determining when a washing cycle should be initiated. The algae are not taught to provide any cleansing benefit, and thus Montagnon teaches away from the present invention.

Adey teaches the use of attached algal colonies for cleansing water. However, it has been shown that the use of algae alone does not remediate the water from certain

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nutrients to a desired level. This is believed to be owing to some of the nutrients being tied up within microorganisms.

Therefore, the present invention recites the steps of exposing water to ozone, which is believed to disrupt cell membranes and release the sequestered nutrients, making them available for algal colony uptake, as discussed on page 6, lines 7-9. This is respectfully believed to represent a significant advance over Adey, one not taught or suggested by either Montagnon or Adey, since neither teaches the combined use of these elements to achieve a desired level of remediation.

A Declaration of Mr. G. Thomas Bland, Jr., President and CEO of the Assignee, is attached, detailing the awarding of a contract from the South Florida Water Management District for the present invention. It is believed that the awarding of this contract is supportive of the novelty and nonobviousness of the present invention over other systems and methods known in the art.

For at least these reasons, independent Claims 1 and 20, and Claims 2, 4, 6, 7, 11, 12, 15, 23, 25, 26, 30, 32, and 33 dependent therefrom, patentably distinguish over Montagnon and Adey, either alone or in combination.

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**II. Rejection of Claims 5, 13, 21, and 24 under 35 USC 103(a)**

The Examiner has rejected Claims 5, 13, 21, and 24 under 35 USC 103(a) as being unpatentable over Montagnon in view of Adey and further in view of Paillard.

As these claims are dependent from independent Claims 1 and 20, believed patentable, these claims are also believed to patentably distinguish over the cited art.

**III. Rejection of Claims 3, 22, and 31 under 35 USC 103(a)**

The Examiner has rejected Claims 3, 22, and 31 under 35 USC 103(a) as being unpatentable over Montagnon in view of Adey and further in view of Last.

As these claims are dependent from independent Claims 1 and 20, believed patentable, these claims are also believed to patentably distinguish over the cited art.

**IV. Allowable Subject Matter**

The Examiner has indicated Claims 8-10, 14, 16-19, 27-29, and 34-37 to contain allowable subject matter.

Claims 8, 14, 16, 18, 27, 34, and 36 have been rewritten into independent form, incorporating the limitations of the base claim and any intervening claims. The limitation of Claim 28 has been incorporated into now-independent Claim 27, and Claim 28 has been canceled. Claims 9, 10, 17, 19, 29, 35, and 37 are dependent from these newly

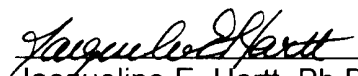
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independent claims. Therefore, Claims 8-10, 14, 16-19, 27-29, and 34-37 are now believed in condition for allowance.

### Conclusions

Applicant respectfully submits that the above amendments place this application in a condition for allowance, and passage to issue is respectfully solicited. The Applicant and the undersigned would like to again thank the Examiner for his efforts in the examination of this application and for reconsideration of the claims as amended in light of the arguments presented. If the further prosecution of the application can be facilitated through telephone interview between the Examiner and the undersigned, the Examiner is requested to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

  
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Jacqueline E. Hartt, Ph.D.

Reg. No. 37,845  
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.  
255 South Orange Avenue, Suite 1401  
P.O. Box 3791  
Orlando, Florida 32802  
(407) 841-2330  
Agent for Applicant



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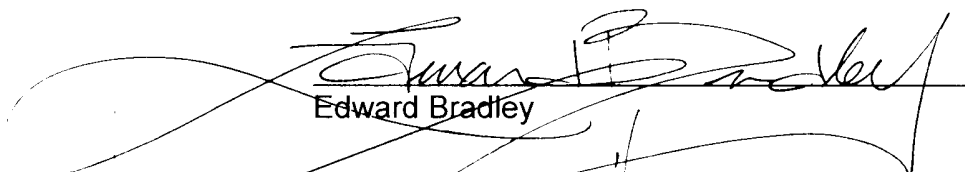
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**CERTIFICATE OF MAILING**

I hereby certify that the foregoing is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner of Patents, Washington D.C. 20231, this 23<sup>rd</sup> day of May, 2003.



Edward Bradley

